



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ARVIN A. PASCUAL,

Petitioner,

G.R. No. 240484

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,

REYES, A., JR.,

HERNANDO,

INTING, and

DELOS SANTOS, JJ.

SITEL CORPORATION, MICHAEL LEE,
ASWIN SUKUMAR, PHOEBE
MONICA ARGANA, REMIL
CANDA and AMOR REYES,

Respondents,

Promulgated:

09 MAR 2020

X-----X

DECISION

INTING, J.:

The Court emphasizes that the constitutional policy to provide full protection to labor is not meant to be a sword to oppress employers. Indeed, the commitment to the cause of labor does not prevent us from sustaining the employer when it is right.¹

Before the Court is a Petition for Review² on *Certiorari* under Rule 45 of the Rules of Court seeking to nullify and set aside the Decision³ dated January 15, 2018 and the Resolution⁴ dated June 25,

¹ See *Doehle-Philman Manning Agency Inc., et al. v. Haro*, 784 Phil. 840, 842 (2016), citing *Magsaysay Maritime Corporation v. NLRC*, 630 Phil. 352, 369 (2010).

² *Rollo*, pp. 3-25.

³ *Id.* at 35-46; penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Romeo F. Barza and Macio V. Lopez (now a member of the Court), concurring.

⁴ *Id.* at 31-32.

2018 of the Court of Appeals (CA) in CA-G.R. SP No. 146445. The assailed Decision granted the petition for *certiorari* filed by Sitel Philippines Corporation (Sitel), Michael Lee (Lee), Amor Reyes (Reyes), Aswin Sukumar (Sukumar), Remil Canda (Canda), and Phoebe Monica Argana (Argana) (collectively, respondents) and dismissed Arvin A. Pascual's (petitioner) complaint for illegal dismissal.

The Antecedents

On October 27, 2006, Sitel hired petitioner as agent. In 2014, Sitel promoted him to the Comcast Customer Service Group (Comcast CSG) account as coach/supervisor with a monthly salary of ₱25,000.00.⁵

Subsequently, Sitel served a notice to explain⁶ dated October 9, 2014 upon him for his failure to take the necessary action on the case of Diosdado Jayson Remion (Remion), an agent in Comcast CSG who has been inactive since May 2014. Sitel then served a second notice to explain upon him charging him with: (a) gross and habitual neglect of duties; (b) other analogous causes; and (c) acts of gross negligence or intentional acts of damage resulting in personal injury or damage to property of the company or third persons, or otherwise causing expenses to be incurred by the company.⁷

In his Reply,⁸ petitioner requested that the charges against him be "particularized" to enable him to raise proper defenses.⁹

On November 4, 2014,¹⁰ respondents specified the acts committed by Remion and reiterated petitioner's failure to take action on Remion's case which resulted in Sitel's losses.¹¹ Correspondingly, Sitel revised the charges against petitioner from gross and habitual neglect to serious misconduct or willful disobedience of employer's orders. An administrative hearing was set on November 10, 2014,¹² but petitioner failed to attend due to the alleged lack of details concerning the charges.

⁵ *Id.* at 60.

⁶ *Id.* at 181.

⁷ *Id.* at 62-63.

⁸ *Id.* at 182-184.

⁹ *Id.* at 64.

¹⁰ See Notice to Explain, *id.* at 188-189.

¹¹ *Id.* at 65.

¹² See Administrative Hearing Notice dated November 4, 2014, *id.* at 190 and Reply To Administrative Hearing, *id.* at p. 203.

Petitioner tried to submit his reply to the third notice to explain, but the guard refused to stamp “received” as the latter was supposedly instructed to accept any document from him, but not to acknowledge its receipt. Unstirred, he sent e-mails¹³ to Argana concerning his situation.¹⁴

On November 21, 2014, Sitel served a Notice to Decision¹⁵ upon petitioner suspending him for five days from November 26 to 30, 2014.¹⁶ To his surprise, ₱6,896.58 was withheld from his salary. On December 2, 2014, another Notice to Explain¹⁷ was served upon him requiring him to explain within 24 hours his absences without permission on November 10, 13, 17, and 22 to 24, 2014. In his response,¹⁸ petitioner expressed his physical, emotional, and psychological predicament. He requested for clarification, but to no avail; thus, prompting him to send an e-mail¹⁹ to the company manifesting his intention to resign, recover his unpaid salary, and the issuance of a certificate of employment. As what happened in the past, his manifestation was not given any proper attention.²⁰

Petitioner personally met Reyes on December 11, 2014 and brought a copy of his letter of resignation²¹ which he previously sent to Lee. He asked Reyes to read and acknowledge its receipt, but she refused. The next day, he found out that an amount of ₱7,842.11 was further withheld from his salary for the period covering November 21 to December 5, 2014. Thus, he pursued his claim for constructive dismissal asserting that: (a) he was pushed to a situation where the oppressive and demeaning acts/omissions of respondents created an adverse working environment rendering it impossible for him to continue with his employment with Sitel; (b) his severance from employment was not voluntary, but was a result of forced resignation arising from harassment, humiliation, and the unlawful withholding of his salaries; (c) he was intentionally coerced into giving up his job; and (d) he was unjustly suspended after respondents ignored his pleas for a bill of particulars and the unjust withholding of his salaries.²²

¹³ *Id.* at 191, 197.

¹⁴ *Id.* at 65.

¹⁵ *Id.* at 208-210.

¹⁶ *Id.* at 67.

¹⁷ *Id.* at 217-219.

¹⁸ *Id.* at 220-221.

¹⁹ *Id.* at 222-225. See another e-mail with the subject “NAKED IN SHAME,” *id.* at 226-229.

²⁰ *Id.* at 68.

²¹ *Id.* at 231-233. See also a letter dated December 8, 2014, *id.* at 340-343.

²² *Id.* at 69-70.

Respondents, on the other hand, asserted that when petitioner assumed his position as coach/supervisor for the Comcast CSG account, its operations manager instructed him to coordinate with the quality team to review the complaint against Remion and to consult with the Human Resource Department of Sitel for the appropriate action. Petitioner did not act on the instruction. On October 9, 2014, a notice to explain was served upon him regarding the charges of gross and habitual neglect and other analogous causes relating to his inaction. In response thereto, petitioner submitted a letter stating that the notice was insufficient in detail. Thenceforth, a second notice to explain was served upon him detailing the losses Sitel incurred for maintaining an agent who did not generate any revenue. Still, petitioner demanded for a written statement with sufficient particularity. On November 11, 2014, an administrative hearing was held wherein petitioner failed to attend. In a Notice to Decision served on November 21, 2014, Sitel suspended petitioner from November 26 to 30, 2014. Instead of terminating petitioner for his infraction, the company took note that he only inherited the Remion case from his predecessors. On December 18, 2014, however, petitioner tendered his resignation letter²³ which the management accepted the following day.²⁴

With regard to petitioner's claim of illegal suspension, respondents insisted that it was for a just and valid cause, that is, petitioner's negligence or failure to report and act upon an unproductive agent under his supervision. Besides, he voluntarily resigned from his work contrary to his assertion of constructive dismissal.²⁵

The Ruling of the Labor Arbiter (LA)

On September 8, 2015, the LA dismissed²⁶ petitioner's complaint for lack of merit and declared his suspension as legal. As a resigned employee, it held that petitioner cannot compel respondents to regain what he had forgone voluntarily by instituting a labor action for illegal dismissal.²⁷ It disposed of the complaint as follows:

ACCORDINGLY, the cause of action for illegal dismissal is DENIED for lack of merit.

²³ *Id.* at 340-343.

²⁴ *Id.* at 70-71.

²⁵ *Id.* at 72.

²⁶ *Id.* at 48-56; penned by Labor Arbiter Marcial Galahad T. Makasjar.

²⁷ *Id.* at 54.

Respondent Sitel Philippines is ordered to release complainant's SALARY in the amount of PhP14,738.69, subject to 5% withholding tax upon payment/execution.

Complainant's suspension is declared LEGAL.

All other claims are DENIED for lack of merit.

Respondents Michael Lee, Amor Reyes, Aswin Sukumar, Remil [Canda] and Phoebe Monica Argana are EXONERATED from all liabilities.

SO ORDERED.²⁸

Aggrieved, petitioner appealed to the National Labor Relations Commission (NLRC).

The Ruling of the NLRC

On appeal, the NLRC rendered a Decision²⁹ dated March 4, 2016 granting petitioner's appeal. The NLRC ruled that the LA erred in interpreting petitioner's letter and the circumstances surrounding his resignation.³⁰ The NLRC found it illogical for petitioner to resign and file a complaint for illegal dismissal.

Both filed their respective motions for reconsideration.

The NLRC partially granted the parties' respective motions for reconsideration in its Resolution³¹ dated April 27, 2016. It reconsidered its ruling on the issue of liability of Sukumar and Reyes and exonerated them for petitioner's failure to present substantial evidence that they acted in bad faith or assented to the illegal acts of the corporation.³² The NLRC, however, denied petitioner's plea for the recomputation of his monetary awards for his failure to prove that he is entitled to the monetization of medical and leave benefits. With respect to the claim of

²⁸ *Id.* at 55-56.

²⁹ *Id.* at 59-84; penned by Commissioner Bernardino B. Julve with Presiding Commissioner Grace M. Venus, concurring.

³⁰ *Id.* at 77.

³¹ *Id.* at 88-95; penned by Commissioner Bernardino B. Julve with Presiding Commissioner Grace M. Venus and Commissioner Leonard Vinz O. Ignacio, concurring.

³² *Id.* at 89.

petitioner for monthly transportation allowance, the NLRC granted it considering that respondents had no objection.³³

Aggrieved, respondents filed a petition for *certiorari* before the CA.

Ruling of the CA

On January 15, 2018, the CA reversed and set aside the NLRC's Decision and dismissed petitioner's complaint. It explained thus:

In this case, the acts of respondent before and after the December 18, 2014 letter of resignation, clearly show that he intended to voluntarily resign from his job, to wit: (i) on December 8, 2014, respondent sent an email to Sitel's CEO, Phil Lee manifesting his intention to resign; (ii) on December 11, 2014, respondent brought a copy of the resignation e-mail he sent to Phil Lee to Reyes, asked her to read it and acknowledge its receipt; (iii) on December 12, 2014, respondent e-mailed a copy of the resignation letter to Reyes; (iv) on December 15, 2014, respondent sent a hard copy of the resignation letter via registered mail; and (v) on December 18, 2014, respondent went back to the petitioner's office with a resignation letter dated that same day.

All these acts leading towards and subsequent to the December 18, 2014 resignation letter clearly show no other intention on the part of respondent, other than to relinquish his employment with the petitioner. **We do not find any other viable reason for him to submit numerous resignation letters on different dates if not to voluntarily sever his employment relationship with the petitioner. The harsh, hostile and unfavorable condition of the workplace was of respondent's own making.** We reiterate that the records show respondent was afforded numerous opportunities to address the charges against him and yet he refused to do so and he antagonized his employer, his peers and superiors alike.³⁴ (Emphasis supplied; citations omitted.)

Hence, this petition.

Ruling of the Court

The petition is without merit.

³³ *Id.* at 93.

³⁴ *Id.* at 44-45.

Petitioner's resignation was voluntary and Sitel is not guilty of constructive dismissal.

It behooves the Court to take a look at the records of the case to determine whether or not petitioner's resignation was through his own volition or was necessarily effected by Sitel's supposed hostile treatment. While only errors of law are generally reviewable on *certiorari*, the Court may look into the factual issues in labor cases when the findings of the LA, the NLRC, and the CA are conflicting. In this case, the findings of the LA and CA, while in consonance with each other, conflict with the NLRC.³⁵

Constructive dismissal is defined as quitting or cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or a diminution of pay and other benefits. It exists if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment. There is involuntary resignation due to the harsh, hostile, and unfavorable conditions set by the employer. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his employment/position under the circumstances.³⁶

Resignation, on the other hand, is the voluntary act of an employee who is in a situation where one believes that personal reasons cannot be sacrificed in favor of the exigency of the service, and one has no other choice but to disassociate oneself from employment. It is a formal pronouncement or relinquishment of an office, with the intention of relinquishing the office accompanied by the act of relinquishment. As the intent to relinquish must concur with the overt act of relinquishment, the acts of the employee before and after the alleged resignation must be considered in determining whether he or she, in fact, intended to sever his or her employment.³⁷

To emphasize, the intent to relinquish must concur with the overt act of relinquishment. The acts of the employee before and after the

³⁵ *Panasonic v. Peckson*, G.R. No. 206316, March 20, 2019, citing *South East International Rattan, Inc., et al. v. Coming*, 729 Phil. 298, 305 (2014).

³⁶ *Id.*, citing *Gan v. Galderna Philippines, Inc., et al.*, 701 Phil. 612, 639 (2013).

³⁷ *Id.* at 639, citing *Nationwide Security and Allied Services, Inc. v. Valderama*, 659 Phil. 362, 371 (2011) and *BMG Records (Phils.), Inc. v. Aparecio*, 559 Phil. 80, 94 (2007).

alleged resignation must be considered in determining whether the employee concerned, in fact, intended to terminate his employment. In illegal dismissal cases, it is a fundamental rule that when an employer interposes the defense of resignation, on him necessarily rests the burden to prove that the employee indeed voluntarily resigned.³⁸

Guided by the foregoing legal precepts, a judicious review of the facts on record will show that Sitel was able to show that petitioner resigned voluntarily as shown by the following circumstances:

First, the e-mail³⁹ which petitioner sent to Lee, Sitel's COO, manifesting his intention to resign categorically and unequivocally expressed his intention to disassociate himself from the company.⁴⁰ In the same e-mail, he even asked for: (1) the payment of his salaries, and (2) the issuance of his certificate of employment.⁴¹

Petitioner wrote:

This is the most painful decision so far that I have ever made in my life. Farthest from the wildest of my imagination that I will ever have a rendezvous with a very dark chapter of a person's professional career - BEING LEFT WITH NO OTHER CHOICE BUT TO DISASSOCIATE MYSELF FROM EMPLOYMENT WITH SITEL.
x x x

x x x x

Truly, I am now in a very discouraged, depressed, exhausted and dejected state emanating from the present inhumane working environment I am being made to suffer. Hence, it FORECLOSES ANY CHOICE BUT FOR ME TO FOREGO CONTINUED EMPLOYMENT WITH SITEL.

The conduct of the following persons toward me have become unbearable already. In consequence, I AM IMPELLED TO GIVE UP MY EIGHT YEARS OF EMPLOYMENT WITH SITEL:

x x x x

Now that I belong to the ranks of the Filipino unemployed by force of circumstances, I humbly request for your intervention Sir for purposes of facilitating the:

³⁸ *Id.*, citing *Central Azucarera de Bais, Inc., et al. v. Siason*, 765 Phil. 399, 407 (2015).

³⁹ *Rollo*, pp. 222-225.

⁴⁰ *Id.* at 222.

⁴¹ *Id.* at 224.

1) Payment of my salaries withheld last 28 November 2014 payroll in contravention of Articles 113 and 116 of The Labor Code of the Philippines. I trust that Ms. Phoebe Monica Argana could release these withheld monies amounting to Php 6,896.58 on or before December 12, 2014 in order that the same could be used for my medical treatment.

2) Issuance of my certificate of employment in compliance with pertinent provisions of the Rules Implementing The Labor Code of the Philippines. I trust that Ms. Argana is most familiar with this provision of law regarding the issuance of certificate of employment to someone whose cessation of employment is impelled by circumstances akin to what befell me. Trusting, that the same could also be released on or before December 12, 2014 in order that I could use it in seeking employment with another company.⁴²

On December 11, 2014, petitioner brought a copy of his resignation letter to Sitel's operations manager, and asked her to read it and acknowledge its receipt.

Second, petitioner e-mailed another copy of the resignation letter to Reyes on December 12, 2014 and reiterated his resignation. After that, he sent a hard copy of the resignation letter to the company *via* registered mail.⁴³

Third, petitioner went back to Sitel on December 18, 2014 with a resignation letter of even date. The following day, Sitel formally accepted his resignation.⁴⁴

Since petitioner submitted his resignation letter on several occasions, it is incumbent upon him to prove with clear, positive, and convincing evidence that his resignation was not voluntary, but was actually a case of constructive dismissal or that it is a product of coercion or intimidation. He has to prove his allegations with particularity.⁴⁵

⁴² *Id.* at 222-224.

⁴³ *Id.* at 230.

⁴⁴ *Id.* at p. 347.

⁴⁵ *Gan v. Galderma Philippines, Inc. and Veneracion*, 701 Phil. 612, 640 (2013). Citation omitted.

In *Pascua v. Bank Wise, Inc.*,⁴⁶ the Court held that an unconditional and categorical letter of resignation cannot be considered indicative of constructive dismissal if it is submitted by an employee fully aware of its effects and implications.⁴⁷

Similarly, *Panasonic v. Peckson*,⁴⁸ teaches that the Court does not sustain findings of fraud upon circumstances which, at most, create only suspicion; otherwise, it would be indulging in speculations and surmises.⁴⁹ Petitioner failed to show any substantial evidence that he was treated unfairly and, thus, he was forced to resign. He failed to show any tangible acts of harassment, insults, and any abuse that would warrant a possible finding of constructive dismissal.⁵⁰

Here, contrary to petitioner's assertions, Sitel aptly established that petitioner's e-mails and resignation letter showed the voluntariness of his separation from the company. While the fact of filing a resignation letter alone does not shift the burden of proof, it is still incumbent upon the employer to prove that the employee voluntarily resigned. In petitioner's case, the facts show that the resignation letter is grounded in petitioner's desire to leave the company as opposed to any deceitful machination or coercion on the part of Sitel. His subsequent and contemporaneous actions belie the claim that petitioner was subjected to harassment by Sitel. Interestingly, even when given the opportunity to explain his side regarding the Remion's case, petitioner conspicuously failed to do so. He consistently evaded the issue and did not attend the hearing on the matter. Petitioner's letter⁵¹ dated December 3, 2014 to Reyes reads in part:

Why can we not sweep out of the rug the fact that we had a communication supported by electronic evidence x x x last 22 November that **the reason why I was not able to report for work is because my ego was totally deflated** after you brought me into a hot pit on the wee hour of morning on 21 November 2014 without the slightest of warning? Electronic evidence will further prove that I explained to you that **I could not muster the emotional strength to be in the same workplace where my reputation was vilified.**⁵² (Emphasis supplied.)

⁴⁶ G.R. No. 191460 & 191464, January 31, 2018, 853 SCRA 446, 449.

⁴⁷ *Id.*

⁴⁸ G.R. No. 206316, March 20, 2019.

⁴⁹ *Id.*, citing *BMG Records (Phils.), Inc. v. Aparecio*, 559 Phil. 80, 92 (2007).

⁵⁰ *Id.*

⁵¹ *Rollo*, pp. 220-221.

⁵² *Id.* at 221.

Petitioner could not have been coerced as well. Coercion exists when there is a reasonable or well-grounded fear of an imminent evil upon a person or his property or upon the person or property of his spouse, descendants or ascendants. Neither petitioner's narration of facts prove that he was intimidated. In one case, the Court enumerated the requisites for intimidation to vitiate one's consent, including: (1) that the intimidation caused the consent to be given; (2) that the threatened act be unjust or unlawful; (3) that the threat be real or serious, there being evident disproportion between the evil and the resistance which all men can offer, leading to the choice of doing the act which is forced on the person to do as the lesser evil; and (4) that it produces a well-grounded fear from the fact that the person from whom it comes has the necessary means or ability to inflict the threatened injury to his person or property.⁵³

Moreover, the alleged instances of badgering or harassment perpetrated by Sitel's representatives, namely: Sukumar, Reyes, and Argana are more apparent than real. Aside from the need to treat these accusations with caution for being self-serving due to lack of substantial documentary or testimonial evidence, the Court is not convinced that the purported "series of events," which compelled him to resign, even if true, are tantamount to constructive dismissal.

The Court agrees with the LA that petitioner's claim of dismissal was also negated by the fact that he was simply suspended for five days, albeit the charges against him merit his dismissal. Verily, Sitel was attentive and considerate with petitioner's situation. It was petitioner who misinterpreted Sitel's decision. The November 26, 2014 letter of Sitel's representative addressed to petitioner states:

From: Aswin Sukumar
Sent: Wednesday, November 26, 2014 2:25 AM
To: Arvin Pascual
Subject: RE IN HARM'S WAY

Dear Arvin,

Thank you for writing in and expressing your thoughts. We appreciate your feedback.

We would like to confirm that the decision for the suspension was limited solely for the purpose of addressing the case and there was no

⁵³ *Id.*, citing *St. Michael Academy v. NLRC*, 354 Phil. 491, 509-510 (1998).

personal intent in the decision (as you have indicated in your response). **We truly acknowledge your feelings, however we do feel that you are wrongly interpreting things.** As I clearly remember mentioning during our discussion, that **we are here to support you 100% and in the absence of your Operations Manager we shared our commitments in helping you build your career with Sitel.**

x x x⁵⁴ (Emphasis supplied.)


In the end, aside from petitioner's self-serving declarations, the Court cannot countenance his claims especially considering the legal dictum that he who asserts, not he who denies, must prove. In the absence of such, the Court must rely on the actual proof presented as evidence, that is, the resignation letter and e-mails of petitioner showing his intent to sever employment with Sitel, and not the mere allegations of harassment that have characterized petitioner's grievances.⁵⁵

WHEREFORE, the instant petition is **DENIED**. The Decision dated January 15, 2018 and Resolution dated June 25, 2018 of the Court of Appeals in CA-G.R. SP No. 146445 are **AFFIRMED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

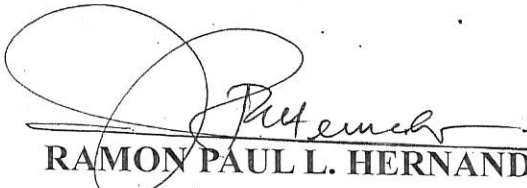

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

⁵⁴ *Rollo*, p. 344.

⁵⁵ *Supra* note 48, citing *Portuguez v. GSIS Family Bank*, 546 Phil. 140, 156-157 (2007).




ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice